

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

JOSEPHAT HENRY resident of Harvey,  
KAY WILLIAMS resident of Harvey,  
SYLVIA BROWNE resident of Clifton Hill,  
MAUDE DREW resident of Estate Barren  
Spot, MARTHA ACOSTA resident of Estate  
Profit, WILHELMINA GLASGOW as in  
individual and mother and next of friend of  
SAMANTHA VIERA, a minor, both  
residents of Estate Profit, MERCEDES  
ROSA resident of Estate Profit, GEORGE  
RODRIGUEZ as an individual and as father  
and next friend of AMANDO and GEORGE  
E. RODRIGUEZ, minors, all residents of  
Estate Profit, SONYA CIRILO resident of  
Estate Profit, RAQUEL TAVAREZ, resident  
of Estate Profit, NEFTALI CAMACHO, as  
an individual and as father and next friend of  
ANGEL JAVIER CAMACHO a minor, both  
residents of Estate Profit, EYAJIE  
MALAYKHAN resident of Estate Profit,  
CHEDDIE KELSHALL resident of Estate  
Profit and other persons too numerous to  
mention, A CLASS ACTION,

Plaintiff,

v.

ST. CROIX ALUMINA, LLC, ALCOA  
INC., and GLENCORE, LTD., f/k/a  
CLARENDON, LTD.,

Defendant.

CIVIL NO. 1999/0036

**ACTION FOR DAMAGES**

**JURY TRIAL DEMANDED**

**DECLARATION OF LEE J. ROHN IN SUPPORT OF:**  
**(1) PLAINTIFFS' RESPONSE AND MEMORANDUM IN OPPOSITION**  
**TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT BASED ON**  
**PLAINTIFFS' LACK OF NECESSARY EVIDENCE [DE 1313]; AND**  
**(2) PLAINTIFFS' RESPONSE TO ALCOA, INC. AND ST. CROIX**  
**ALUMINA'S MOTION FOR SUMMARY JUDGMENT ON PLAINTIFFS'**  
**CLASS CLAIMS FOR INJUNCTIVE RELIEF [DE 1310]**

**Henry, et al. v. St. Croix Alumina, LLC, et al., Civil No. 1999/0036**  
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I, Lee J. Rohn, being first duly sworn, declare under penalty of perjury that the foregoing is true and correct.

1. "My name is Lee J. Rohn. I am competent to make this declaration. The facts stated herein are within my personal knowledge and are true and correct.

2. I am an attorney admitted to practice in the Virgin Islands and before this Court. I am representing Plaintiffs in the above-referenced lawsuit. Defendants Alcoa, Inc. ("Alcoa"), St. Croix Alumina, LLC ("SCA"), and Glencore Ltd. ("Glencore") filed their Motion for Summary Judgment Based on Plaintiffs' Lack of Necessary Evidence (Doc. No. 1313) on May 22, 2009 ("Joint Motion"). Defendant Alcoa filed its Motion for Summary Judgment on Plaintiffs' Class Claim for Injunctive Relief (Doc. No. 1310) on May 15, 2009, and Glencore incorporated Alcoa's motion into its Motion for Summary Judgment on Class Claims for Injunctive Relief and Memorandum of Points and Authorities (Doc. 1312) in support thereof. This affidavit is filed in support of Plaintiffs' Response and Memorandum in Opposition to Defendants' Motion for Summary Judgment Based on Plaintiffs' Lack of Necessary Evidence and Plaintiffs' Response and Memorandum in Opposition to Alcoa, Inc. and St. Croix Alumina's Motion for Summary Judgment on Plaintiffs' Class Claims for Injunctive Relief.

3. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the Deposition of Josephat Henry taken herein on March 20, 2000.

4. Attached hereto as Exhibit 2 is a true and correct copy of the Affidavit of Josephat Henry taken herein.

5. Attached hereto as Exhibit 3 is a true and correct copy of the Affidavit of Kay Williams taken herein.

6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the Deposition of Kay Williams taken herein on March 22, 2000.

7. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the Deposition of Kay Williams taken herein on December 10, 2003.

8. Attached hereto as Exhibit 6 is a true and correct copy of the Affidavit of Sylvia Browne taken herein.

9. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the Deposition of Sylvia Browne taken herein on March 22, 2000.

10. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the Deposition of Sylvia Browne taken herein on December 9, 2003.

11. Attached hereto as Exhibit 9 is a true and correct copy of the Affidavit of Maud Drew taken herein.

12. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the Deposition of Maud Drew taken herein on December 10, 2003.

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13. Attached hereto as Exhibit 11 is a true and correct copy of the Affidavit of Martha Acosta taken herein.

14. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from the Deposition of Martha Acosta taken herein on October 15, 2001.

15. Attached hereto as Exhibit 13 is a true and correct copy of the Affidavit of Wilhelmina Glasgow taken herein.

16. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the Deposition of Wilhelmina Glasgow taken herein on October 16, 2001.

17. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the Deposition of Wilhelmina Glasgow taken herein on June 24, 2003.

18. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the Deposition of Samantha Viera taken herein on June 24, 2003.

19. Attached hereto as Exhibit 17 is a true and correct copy of the Affidavit of George Rodriguez taken herein.

20. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from the Deposition of George Rodriguez taken herein on June 26, 2003.

21. Attached hereto as Exhibit 19 is a true and correct copy of the Affidavit of Sonya Cirilo taken herein.

22. Attached hereto as Exhibit 20 is a true and correct copy of excerpts from the Deposition of Sonya Cirilo taken herein on June 27, 2003.

23. Attached hereto as Exhibit 21 is a true and correct copy of the Affidavit of Raquel Tavarez taken herein.

24. Attached hereto as Exhibit 22 is a true and correct copy of excerpts from the Deposition of Raquel Tavarez taken herein on June 24, 2003.

25. Attached hereto as Exhibit 23 is a true and correct copy of the Affidavit of Neftali Camacho taken herein.

26. Attached hereto as Exhibit 24 is a true and correct copy of excerpts from the Deposition of Neftali Camacho taken herein on June 25, 2003.

27. Attached hereto as Exhibit 25 is a true and correct copy of the Affidavit of Eyajie Malaykhan taken herein.

28. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from the Deposition of Eyajie Malaykhan taken herein on June 23, 2003.

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29. Attached hereto as Exhibit 27 is a true and correct copy of excerpts from the Deposition of Kelshall Cheddie taken herein on June 23, 2003.

30. Attached hereto as Exhibit 28 is a true and correct copy of the Affidavit of Mercedes Rosa taken herein.

31. Attached hereto as Exhibit 29 is a true and correct copy of excerpts from the Deposition of Mercedes Rosa taken herein on June 25, 2003.

32. Attached hereto as Exhibit 30 is a true and correct copy of excerpts from SCA's Amended Responses to Plaintiffs' First Set of Interrogatories herein.

33. Attached hereto as Exhibit 31 is a true and correct copy of a report by Arthur D. Little called "Environmental Due Diligence Assessment" ("Little Report") dated August 2001 as it was produced in discovery in this case by counsel for Defendants on May 23, 2008.<sup>1</sup> Defendant St. Croix Alumina included the Little Report as Exhibit H to SCA and Alcoa World Alumina, LLC's Statement of Undisputed Facts (Doc. No. 229) in *St. Croix Renaissance Group, LLLP, et al., v. St. Croix Alumina, LLC*, No. 2004/67 in the U.S. District Court of the Virgin Islands, Division of St. Croix. SCA admitted that it received the Little Report in August 2001 and provided St. Croix Renaissance Group and others with a copy of the report as part of the due diligence in the sale of the St. Croix Alumina Refinery ("the Refinery"). This recent statement by SCA in a pleading in this court is an admission against interest under Fed. R. Evid. 801(d) that the Little Report is authentic and admissible non-hearsay.

34. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from the Deposition of Eric Black taken herein on April 24, 2002.

35. Attached hereto collectively as Exhibit 33 is a true and correct copy of Ward, Sam C., *Reclaiming Bauxite Residue Disposal Areas in South-West Australia*, in Australia Mining Industry Council, Canberra, *Mining Rehabilitation '87* (Tom Farrell ed., 1987) and a true and correct copy of a page from the website of the National Library of Australia printed on July 14, 2009. The Ward chapter is an authentic and admissible ancient document under FED. R. EVID. 803(16) and 901(b)(8) because: (1) as a chapter of a published book, its existence casts no suspicion upon it; (2) it is more than twenty years old; and (3) it is available from the National Library of Australia (see <http://catalogue.nla.gov.au/Record/1680703>), where one would expect to find an authentic document of its kind. The Ward chapter is also an admissible learned treatise.

36. Attached hereto as Exhibit 34 is a true and correct copy of the "Environmental Assessment Report for the Expansion of Red Mud Storage Ponds at the Virgin Islands Alumina Corporation's Alumina Refinery, Estate Annaberg and Shannon Grove, and Estate Spanish Town, St. Croix, Virgin Islands," prepared by BioImpact, Inc. submitted by Virgin Islands

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<sup>1</sup> A document produced by the opposing party in the litigation is authenticated. See *U.S. v. Brown*, 688 F.2d 1112, 1116 (7<sup>th</sup> Cir. 1982); *Int'l Paper Co. v. Androscoggin Energy, LLC*, 2002 WL 31155069, \*2 (N.D. Ill. 2002); *John Paul Mitchell Sys. V. Quality King Distrib., Inc.*, 106 F. Supp. 2d 462, 472 (S.D.N.Y. 2000); *In Re Greenwood Air Crash*, 924 F. Supp. 1511, 1514-15 (S.D. Ind. 1995); *South Cent. Bank and Trust v. Citicorp Credit Servs.*, 863 F.Supp. 625, 646 (N.D. Ill. 1994); and *In Re Asbestos School Litigation*, 1991 WL 134322, \*2 (E.D. Pa. 1991).

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Alumina Incorporated to the Office of Coastal Zone Mgmt., Office of Permits, Dept. of Planning and Natural Resources ("DPNR"), Gov't of the Virgin Islands (Apr. 1994) ("1994 BioImpact Report"). This document is authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d).

37. Attached hereto as Exhibit 35 is a true and correct copy of a document called "Capital Costs 1989-1990" (G00166-174) and produced by Defendant Glencore in discovery in this case. This document is admissible under Fed. R. Evid. 807 because: (1) it was produced by Glencore in response to discovery requests in this case; (2) it is the type of business record one would expect to find within Glencore's possession; (3) the document is the best available source of information on whether Glencore made any improvements to the bauxite storage shed during the relevant time period; and (4) the general purpose of the rules and the interests of justice would be best served by admitting this evidence.

38. Attached hereto as Exhibit 36 is a true and correct copy of a report by Dames & Moore to Martin Marietta Alumina dated October 5, 1977 ("Dames & Moore Report") and produced by SCA in this case bearing Bates Nos. SCA 000368-531. The Dames & Moore Report is an authentic and admissible ancient document under FED. R. EVID. 803(16) and 901(b)(8) because: (1) its existence casts no suspicion upon it since Martin Marietta had an ownership interest in the Refinery at the time the document was created; (2) it is more than twenty years old; and (3) it was produced by SCA in discovery in this, where one would expect to find an authentic document of its kind.

39. Attached hereto as Exhibit 37 is a true and correct copy of the "Environmental Assessment Report for a Well Water Gathering System at the Virgin Islands Alumina Corporation's Alumina Refinery, Estate Annaberg and Shannon Grove, and Estate Spanish Town, St. Croix, Virgin Islands," prepared by BioImpact, Inc. and submitted by Virgin Islands Alumina Incorporated to the Office of Coastal Zone Mgmt., Office of Permits, Dept. of Planning and Natural Resources ("DPNR"), Gov't of the Virgin Islands (Feb. 1991). This document ("1991 BioImpact Report") was produced by Defendant SCA in discovery bearing bates numbers "SCA 00076-154." This document is authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d).

40. Attached hereto as Exhibit 38 is a true and correct copy of a document called "Hurricane Manual Eric Black," produced in discovery in this case by Defendant SCA as "SCX 000626-665." This document is authentic under FED. R. EVID. 901(b)(4) because its cover and pages have distinctive characteristics. This document is also authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d). *See also* Black Dep. at 11:14-23 (identifying the manual as the one to which Black contributed).

41. Attached hereto as Exhibit 39 is a true and correct copy of a document called "Hurricane Preparedness Procedure and Recovery Plan Revised July 2000," produced in discovery in this case by Defendant SCA as "SCX 033030-114." This document is authentic under FED. R. EVID. 901(b)(4) because its cover and pages have distinctive characteristics. This document is also authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d).

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42. Attached hereto as Exhibit 40 is a true and correct copy of the Notice of Violation, Order for Corrective Action, and Notice of Opportunity for Hearing ordered on Oct. 21, 1998 by the DPNR and produced in discovery in this case by the DPNR bearing bates numbers "DPNR 000706-713." This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

43. Attached hereto as Exhibit 41 is a true and correct copy of a DPNR Interoffice Memorandum dated Sept. 24, 1998. This document was produced by Defendants in discovery in this case and is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8) and 901(7).

44. Attached hereto as Exhibit 42 is a true and correct copy of a document called "Bauxite Residue Management Standards and Guidelines," dated Aug. 1987 and produced by Defendant Alcoa in this case bearing bates numbers "AI000076-132." *See also* Black Dep. at 132:1-20 (testifying as a corporate representative that he has seen the document before and that it was created by Alcoa). This document is also authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d) because it contains statements that bauxite can be dangerous to human health.

45. Attached hereto as Exhibit 43 is a true and correct copy of Arun S. Wagh, "Physical and Chemical Characterization of Bayer Process Waste (Red Mud) From Virgin Island Alumina Refinery at St. Croix and an Assessment of Its Potential for Commercial Utilization," dated Oct. 31, 1993 (Bates Labeled Bock 003 through Bock 031). This document is authenticated by its author's testimony. *See* Wagh Dep. (Exhibit 72) at 116:18-117:4 (identifying the report as what he wrote and provided to VIALCO). This document is an admissible statement against interest under FED. R. EVID. 804(b)(3) and 801(d).

46. Attached hereto as Exhibit 44 is a true and correct copy of an excerpt of "Site Assessment for the Vialco Facility St. Croix, U.S. Virgin Islands," dated Nov. 1995, Prepared for Alcoa by Geraghty & Miller, Inc., and produced in discovery by Defendant Alcoa as "AI000835-AI0001726" ("Geraghty & Miller Report"). Defendant St. Croix Alumina included the Geraghty & Miller Report as Exhibit I to St. Croix Alumina, LLC ("SCA") and Alcoa World Alumina, LLC's Statement of Undisputed Facts (Doc. No. 229) in *St. Croix Renaissance Group, LLLP, et al., v. St. Croix Alumina, LLC*, No. 2004/67 in the U.S. District Court of the Virgin Islands, Division of St. Croix and admitted that Alcoa retained Geraghty & Miller to prepare the report and that SCA provided St. Croix Renaissance Group and others with a copy of the report as part of their due diligence in the sale of the St. Croix Alumina Refinery ("the Refinery"). This recent statement by Defendant SCA in a pleading in this court is an admission against interest under FED. R. EVID. 804(b)(3) and 801(d) that the Geraghty & Miller Report is authentic and admissible non-hearsay.

47. Attached hereto as Exhibit 45 is a true and correct copy of excerpts from the Deposition of Warren Pedersen taken herein on April 25, 2002.

48. Attached hereto as Exhibit 46 is a true and correct copy of excerpts from the Deposition of Patrick O'Neale taken herein on January 25, 2002.



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49. Attached hereto as Exhibit 47 is a true and correct copy of excerpts from the Deposition of Fred Williams taken herein on June 17, 2005.

50. Attached hereto as Exhibit 48 is a true and correct copy of excerpts from the Deposition of Joseph L. Norton taken herein on February 25, 2002.

51. Attached hereto as Exhibit 49 is a true and correct copy of excerpts from the Deposition of Robert Scott Prusak taken herein on February 22, 2002.

52. Attached hereto as Exhibit 50 is the St. Croix Alumina Refinery Report to Clarendon, Ltd. (Bates Nos. G00207-68) as produced by Defendant Glencore herein. This document is authentic because (1) it was produced by Glencore in discovery in this case; (2) Defendant Glencore's corporate representative testified that he remembered the report;<sup>2</sup> and (3) pursuant to FED. R. EVID. 901(b)(4), each page of text in the document bears the name "St. Croix Alumina Refinery Report to Clarendon, Ltd.," which is a distinctive characteristic. This document is admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d) because it states that Defendant Glencore had concerns about problems at the Refinery, including the ability of the bauxite storage shed to withstand storm conditions and the potential "air pollution problem" posed by bauxite residue. *Id.* at G00213; G00242.

53. Attached hereto as Exhibit 51 is a Press Release by Ormet Corporation dated May 18, 1989 that was produced by Defendant Glencore in discovery with Bates Nos. G00428-430. This document is an authentic and admissible ancient document under FED. R. EVID. 803(16) and 901(b)(8) because its existence casts no suspicion upon it, it is more than twenty years old, and it was located where an authentic document would be expected—within Glencore's files.

54. Attached hereto as Exhibit 52 is "Technology Roadmap for Bauxite Residue Treatment and Utilization," by Energetics, Inc. dated February 2000.

55. Attached hereto as Exhibit 53 is a true and correct copy of St. Croix Alumina, LLC ("SCA") and Alcoa World Alumina, LLC's Statement of Undisputed Facts (Doc. No. 229) in *St. Croix Renaissance Group, LLLP, et al., v. St. Croix Alumina, LLC*, No. 2004/67 in the U.S. District Court of the Virgin Islands, Division of St. Croix. This document is authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d) because it contains numerous statements that contradict Defendants' positions in the Joint Motion.

56. Attached hereto as Exhibit No. 54 is a true and correct copy of the Material Safety Data Sheet prepared by Alcoa and dated Sept. 10, 1999. This document was produced by Alcoa in this case bearing Bates Nos. A1000008-14.

57. Attached hereto as Exhibit No. 55 is a true and correct copy of the Material Safety Data Sheet prepared by Alcoa and dated Nov. 13, 1985. This document was produced by Alcoa in this case bearing Bates Nos. A1000656-658.

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<sup>2</sup> See Exhibit 45, *supra*, at 48 ("I remember the report. The report is a report to the management of Clarendon, Ltd.")

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58. Attached hereto as Exhibit No. 56 is a true and correct copy of the Material Safety Data Sheet prepared by Alcoa and dated Nov. 3, 1987. This document was produced by Alcoa in this case bearing Bates Nos. A1000671-674.

59. Attached hereto as Exhibit No. 57 is a true and correct copy of the Material Safety Data Sheet prepared by Alcoa and dated Nov. 1, 1990. This document was produced by Alcoa in this case bearing Bates Nos. A1000687-689.

60. Attached hereto as Exhibit No. 58 is a true and correct copy of the Material Safety Data Sheet prepared by Alcoa and dated Mar. 31, 1990. This document was produced by Alcoa in this case bearing Bates Nos. A1000696-700.

61. Attached hereto as Exhibit No. 59 is a true and correct copy of the Material Safety Data Sheet prepared by Alcoa and dated Oct. 31, 2000. This document was produced by Alcoa in this case bearing Bates Nos. A100001-07.

62. Exhibits 54-59 are authentic because they were produced by Alcoa in discovery in this case and they bear Alcoa's name and logo, which is a distinctive characteristic pursuant to FED. R. EVID. 901(b)(4). These documents are also admissible as admissions against interest under FED. R. EVID. 804(b)(3) and 801(d) because they state that red mud and bauxite can cause health hazards including those experienced by Plaintiffs herein.

63. Attached hereto as Exhibit 60 is a true and correct copy of excerpts from the Deposition of Walter Larsen taken herein on June 15, 2005.

64. Attached hereto collectively as Exhibit 61 are true and correct copies of the reports of Walter Larsen submitted by Defendants herein.

65. Attached hereto collectively as Exhibit 62 are true and correct copies of the reports of Phillip Guzelian submitted by Defendants herein.

66. Attached hereto as Exhibit 63 is a true and correct copy of excerpts from the Deposition of Mavis Matthew taken herein on Apr. 29, 2005.

67. Attached hereto as Exhibit 64 is a true and correct copy of EPA Memorandum dated Oct. 26, 1998 (Bates Labeled Tarr-01998-2043). This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

68. Attached hereto as Exhibit 65 is a true and correct copy of the St. Croix CAM Committee Staff Recommendation, Major CZM Permit No. CZX-25-94L Expansion of Red Mud Storage Area, Virgin Islands Alumina Corporation (Sept. 6, 1994), an official publication and/or public record under FED. R. EVID. 803(8), 901(7), 902(5).

69. Attached hereto as Exhibit 66 is a true and correct copy of St. Croix Alumina, LLC's "Residue Disposal Facilities Master Plan," dated June 2000 and produced by Defendant SCA herein bearing Bates Nos. SCX032973-033029. This document is also admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d).



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70. Attached hereto as Exhibit 67 is a true and correct copy of Wagh, A.S., *et al*, *A study of inter-particle bonds in dry bauxite waste resulting in atmospheric Aerosols*, PHYSICA SCRIPTA 305-309 (1988), Bates Nos. Tarr 8162-8166. This article is authenticated by its author's testimony and is a learned treatise under FED. R. EVID. 803(18). *See* Wagh Dep. (Exhibit 72) at 88:17-89:16.

71. Attached hereto as Exhibit 68 is a true and correct copy of "Dust Management Plan for the Alcoa Pinjarra Bauxite Residue Disposal Area," March 2007, Bates Nos. Klepp-007804-40. The cover of this document has Alcoa's name and logo, which is a distinctive characteristic pursuant to FED. R. EVID. 901(b)(4). This document is also admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d).

72. Attached hereto collectively as Exhibit 69 are true and correct copies of excerpts from the Deposition of Ranjit E. Machado, Volumes 1 through 3, May 11, 2005, May 13, 2005 and October 30, 2008.

73. Attached hereto as Exhibit 70 is a true and correct copy of the Expert Report of Ranjit J. Machado, PE and Joseph V. Rodricks, PhD, February 2005, also referred as the "Environ Report."

74. Attached hereto as Exhibit 71 is a true and correct copy of the DPNR Memo from Tyrone Benjamin, Environmental Specialist 11, to Austin Moorehead, Director (Oct. 5, 1998), an official public record under FED. R. EVID. 803(8) and 901(7).

75. Attached hereto as Exhibit 72 is a true and correct copy of excerpts from the Deposition of Arun Wagh taken herein on Apr. 26, 2005.

76. Attached hereto as Exhibit 73 is a true and correct copy of the Expert Report of Edward W. Kleppinger dated Apr. 10, 2003.

77. Attached hereto as Exhibit 74 is a true and correct copy of the Supplemental Expert Report of Edward W. Kleppinger dated Feb. 8, 2008.

78. Attached hereto as Exhibit 75 is a true and correct copy of the Second Supplemental Expert Report Edward W. Kleppinger dated Apr. 3, 2008.

79. Attached hereto as Exhibit 76 is a true and correct copy of the EPA Memorandum dated Apr. 13, 1999. This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5). Defendants' inclusion of this document as Exhibit B to the Joint Motion (Doc. No. 1315-3) precludes Defendants from challenging the authenticity and/or admissibility of this document.

80. Attached hereto as Exhibit 77 is a true and correct copy of excerpts of weather data collected at the St. Croix Alumina Refinery during Hurricane Georges and produced by Defendant SCA in discovery bearing Bates Nos. SCX007394, SCX007548-55. This document is an admissible as a present sense impression under FED. R. EVID. 803(1).

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81. Attached hereto, collectively, as Exhibit 78 is a true and correct copy of the Acquisition Agreement between Virgin Islands Alumina Corp. and St. Croix Alumina Corp. and the affidavit of Bernard Pattie authenticating that agreement.

82. Attached hereto as Exhibit 79 is the Affidavit of Paul Arnold.

83. Attached hereto as Exhibit 80 is a true and correct copy of Century Aluminum Company's 10-k Report dated Mar. 27, 1997, which is an official public record of the SEC as printed off the SEC's website.

84. Attached hereto collectively as Exhibit 81 are true and correct copies of (a) receipt, (b) check, (c) cancelled envelope (all bearing the name "Glencore, Ltd.", produced and identified by SCA as documents copied from DPNR), (d) true and correct copy of letter from DPNR files regarding these documents and (e) invoice from DPNR files (corresponding to the documents), attached as Exhibit 81.

85. Attached hereto as Exhibit 82 is a true and correct copy of the DPNR Administrative Order dated June 18, 2002 signed on behalf of SCA by Eric W. Black. This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

86. Attached hereto as Exhibit 83 is a true and correct copy of the Consent Order and Stipulation of Dismissal with Prejudice between DPNR and SCA, dated January 22, 2003, and signed on behalf of SCA by Eric W. Black. This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

87. Attached hereto as Exhibit 84 is a true and correct copy of DPNR Development Permit Application, which includes Forms L & WD 2, Permit Application, L & WD-3, Zoning Requirement Table, and Form L & WD-4, Major Project Summary Data, all dated March 14, 2003, all identifying SCA as the applicant, and all signed on behalf of SCA by Eric W. Black. This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

88. Attached hereto as Exhibit 85 is a true and correct copy of Major-Coastal-Zone-Management-Permit-No.-CZX-15-03(L)-11-10-2003, identifying SCA as the Permittee, and signed by the Chairman of the CZM Committee on November 5, 2003, and on November 10, 2003 by Eric W. Black who certified that he was duly authorized and empowered to sign the permit on behalf of SCA. This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

89. Attached hereto as Exhibit 86 is a true and correct copy of the letter from the Commissioner of DPNR to counsel for Alcoa dated August 10, 2006. This document is authentic and admissible as an official public record and/or report under FED. R. EVID. 803(8), 901(7), and 902(5).

90. Attached hereto as Exhibit 87 is a true and correct copy of St. Croix Alumina, L.L.C. and Alcoa World Alumina, L.L.C.'s Memorandum in Opposition to Motion to Compel Deposition of

Henry, et al. v. St. Croix Alumina, LLC, et al., Civil No. 1999/0036

DECLARATION OF LEE J. ROHN IN SUPPORT OF PLAINTIFFS' OPPOSITIONS

TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

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Kirk Gribben, electronically filed in *St. Croix Renaissance Group, LLLP, et al., v. St. Croix Alumina, LLC*, No. 2004/67, in the District Court of the Virgin Islands, Division of St. Croix, as Doc. No. 117, and dated September 11, 2008. This document is authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d) because it contains statements that contradict Defendants' positions in Alcoa's Motion.

91. Attached hereto as Exhibit 88 is a true and correct copy of the Memorandum of Law in Support of Motion for Partial Summary Judgment by Defendants St. Croix Alumina, L.L.C. and Alcoa World Alumina, L.L.C., electronically filed in *DPNR v. Century Aluminum Company, et al., Civil No. 2005-0062*, in the District Court of the Virgin Islands, Division of St. Croix, as Doc. No. 362, and dated July 15, 2009. This document is authentic and admissible as an admission against interest under FED. R. EVID. 804(b)(3) and 801(d) because it contains statements that contradict Defendants' positions in Alcoa's Motion.

*Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.*

Dated: July 22, 2009

/s/ Lee J. Rohn (dr)

Lee J. Rohn

ROHN & CARPENTER

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 22, 2009, a true and correct copy of the above and foregoing Declaration of Lee J. Rohn in Support of: (1) Plaintiffs' Response and Memorandum in Opposition to Defendants' Motion For Summary Judgment Based on Plaintiffs' Lack of Necessary Evidence [DE 1313]; and (2) Plaintiffs' Response to Alcoa, Inc. and St. Croix Alumina's Motion for Summary Judgment on Plaintiffs' Class Claims for Injunctive Relief [DE 1310] was electronically filed with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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/s/ Lee J. Rohn

Lee J. Rohn